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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/729,484	12/04/2000	Connie T. Marshall	ODS/018	5978

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ROPES & GRAY LLP  
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EXAMINER
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ELISCA, PIERRE E

ART UNIT	PAPER NUMBER
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3714

MAIL DATE	DELIVERY MODE
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05/26/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/729,484

**Applicant(s)**

MARSHALL ET AL.

**Examiner**

Pierre E. Elisca

**Art Unit**

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 4-8, 14-18 and 21-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-8, 14-18 and 21-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. This communication is in response to Applicant's amendment filed on 10/05/2009.
2. Claims 4-8, 14-18 and 21-30 are currently pending and have been examined.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4, 8, 14, 18, 24, 25, 29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brenner et al. (5,830,068) in view of Schneier, Bruce et al (US PG Pub 2009/0227367 A1).

Referring to claim 14, Brenner et al. teaches a system of providing a user interface for interactive wagering, comprising:

a user input device (122)(Figure 1) that accepts user inputs (2:32-67; 8:15-28; 9:5-25; 9:67-10:7); and

control circuitry (140)(Figure 2)(7:55-67) that receives an indication from a first user of a first wagering preference as one of the user inputs, *e.g., player starts the interactive racing game by selecting race tracks, races, wager types, and wager*

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*amounts*, that stores the first wagering preference during a first wagering session, that identifies the first user in at least one first subsequent wagering session; that, in response to identifying the first user, uses the stored first wagering preference as a default selection in subsequent wagers in the at least one first subsequent wagering session, *e.g.*, *the setting that could be reused as in "duplicate a wager" option (12:45-50)*, wherein the subsequent wagers are associated with at least a track selection, a race selection, a bet type selection, a bet amount selection, and a horse selection (Figs. 8-11; 18:41-67, and that provides the first user with an opportunity to change the default selection for at least one of the subsequent wagers from the default selection to another selection *e.g.*, selecting "duplicate a wager," "more bets same race," or "delete" wager, (12:27-50) (Figs.8-19).

Note that, the "duplicate a wager" function provides the user with an opportunity to place a new wager from previously wager selections, which in fact is a saved player preference or player default setting. Further note that, Brenner et al.'s teaching of user selection of "more bets same race" (12:27-37) wherein the same race being reused is considered as a default or saved player preference.

It is to be noted that Brenner fails to explicitly disclose the limitation of: storing a wagering preference in a first user session and using that stored wagering preference in a subsequent user session. However, Schneier discloses a method/system of storing a wagering preference in a first user session and using that stored wagering preference in a subsequent user session (see., paragraph 0068 and abstract).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teaching of Brenner by including the limitation detailed above as taught by Schneier because this would save player preference.

Referring to claim 4, the system of Brenner et al. above is capable of performing a method of providing a user interface for interactive wagering, comprising:

receiving an indication from a first user of a first wagering preference, *e.g., accepting user inputs* (2:32-67; 8:15-28; 9:5-25; 9:67-10:7);

storing the first wagering preference during a first wagering session, *e.g., the user inputs being stored for subsequent wagers such that some of the user's inputs or player preference could be reused* (12:27-50);

identifying the first user in at least one first subsequent wagering session;

in response to identifying the first user, using the stored first wagering preference as a default selection in subsequent wagers in the at least one first subsequent wagering session, wherein the subsequent wagers are associated with at least a track selection, a race selection, a bet type selection, a bet amount selection, and a horse selection (Figs. 8-11; 18:41-67);

and providing the user with an opportunity to change the default selection for at least one of the subsequent wagers from the default selection to another selection *e.g., selecting "duplicate a wager," "more bets same race," or "delete" wager*, (12:27-50) (Figs.8-19).

Note that, the “duplicate a wager” function provides the user with an opportunity to place a new wager from previously wager selections, which in fact is a saved player preference or player default setting. Further note that, Brenner et al.’s teaching of user selection of “more bets same race” (12:27-37) wherein the same race being reused is considered as a default or saved player preference.

It is to be noted that Brenner fails to explicitly disclose the limitation of: storing a wagering preference in a first user session and using that stored wagering preference in a subsequent user session. However, Schneier discloses a method/system of storing a wagering preference in a first user session and using that stored wagering preference in a subsequent user session (see., paragraph 0068 and abstract).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teaching of Brenner by including the limitation detailed above as taught by Schneier because this would save player preference.

Referring to claims 8 and 18, Brenner et al. teaches the at least one default setting of the default wager is a previously selected track (using the hot button to bet on the next race and by pass selection steps 196, 204, and 213)(Figure 3 and column 17, lines 10-26, or using the “duplicate a wager” feature).

Referring to claims 24 and 29, Brenner et al. teaches the control circuitry identifies the first user by authenticating the first user using a PIN (e.g., personal identification code, 4:43-56; 15:53-55).

Referring to claims 25 and 30 wherein the control circuitry (or method step thereto) identifies the first user by identifying the first user from a plurality of authorized users of the user interface, this limitation is inherent from Brenner et al.'s teaching of users must establish accounts in orders to play (7:35-54).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 21-23 and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brenner et al. (5,830,068) in view of Schneier, Bruce et al (US PG Pub 2009/0227367 A1).

.Brenner et al. and Schneier teach all limitations of claims 4, 8, 14, 18, 24, 25, 29, and 30 as being addressed above.

Referring to claims 21-23 and 26-28, Brenner et al. and Schneier do not explicitly disclose a second user, wherein control circuitry (or steps thereto) that receives an

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indication from a second user of a second wagering preference; stores the second wagering preference during a second wagering session; identifies the second user in at least one second subsequent wagering session; and in response to identifying the second user, uses the stored second wagering preference as a default selection in subsequent wagers in the at least one second subsequent wagering session; the first wagering preference and the second wagering preference are different wagering preferences (claims 22 and 27); the first user and the second user are different users (claims 23 and 28); however, since the user terminal (122) of Brenner et al. is capable of allowing different users to play (e.g., each registered user must log in using personal identification code in order to play, 4:43-56; 15:53-55) it would have been obvious to a person of ordinary skill in the art at the time the invention was made to recognize that the user terminal of Brenner et al. and Schneier could be used by different people in the same residence of the machine such as family members and or roommates who play the game differently.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 4, 8, 14, 18, and 21-30 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***



8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 571 272 6706. The examiner can normally be reached on 6:30 to 5:00. Hotelier.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571 272 4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Pierre E. Elisca/  
Primary Examiner, Art Unit 3714